

Order

Michigan Supreme Court
Lansing, Michigan

May 17, 2011

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2008-28

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

Amendment of Rule 6.005
of the Michigan Court Rules

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Rule 6.005 of the Michigan Court Rules is adopted, effective September 1, 2011.

[The present language is amended as indicated below by underlining for new text and strikeover for text that has been deleted.]

Rule 6.005 Right to Assistance of Lawyer; Advice; Appointment for Indigents; Waiver; Joint Representation; Grand Jury Proceedings

(A)-(G)[Unchanged.]

(H) Scope of Trial Lawyer's Responsibilities. The responsibilities of the trial lawyer ~~appointed to represent~~ who represents the defendant include:

- (1) representing the defendant in all trial court proceedings through initial sentencing,
- (2) filing of interlocutory appeals the lawyer deems appropriate, and
- (3) responding to any preconviction appeals by the prosecutor, ~~and~~. The defendant's lawyer must either:
 - (i) file a substantive brief in response to a prosecutor's interlocutory application for leave to appeal, or
 - (ii) notify the Court of Appeals that the lawyer will not be filing a brief in response to the application.

- (4) Unless~~unless~~ an appellate lawyer has been appointed or retained, or if retained trial counsel withdraws, the trial lawyer who represents the defendant is responsible for filing of postconviction motions the lawyer deems appropriate, including motions for new trial, for a directed verdict of acquittal, to withdraw plea, or for resentencing.

(I) [Unchanged.]

Staff Comment: The amendment of MCR 6.005(H) revises the rule to clarify that appointed and retained defense counsel in a criminal proceeding either must file a substantive response to a prosecutor's application for interlocutory appeal or notify the Court of Appeals that the lawyer intends not to submit a pleading.

The staff comment is not an authoritative construction by the Court.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 17, 2011

Corbin R. Davis

Clerk